

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SUSAN PHILLIANS
5927 Lakewood Road
Ravenna, Ohio 44266

Plaintiff,

V.

BAY AREA CREDIT SERVICE
1901 W. 10th Street
Antioch, California 94509

Defendant.

Case No.: 5:11-cv-2218

JURY DEMAND REQUESTED

VERIFIED CIVIL COMPLAINT
(Unlawful Debt Collection Practices)

VERIFIED COMPLAINT

PLAINTIFFS HERBERT AND SUSAN PHILLIANS (Plaintiff), by her attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT BAY AREA CREDIT SERVICE (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in Ravenna, Portage County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a "consumer" as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a debt collector with an office in Antioch, California.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant places excessive collection calls to Plaintiff in an attempt to collect an alleged debt.
11. Defendant places collection calls to Plaintiff on nearly a daily basis for the past three months.
12. Plaintiff receives collections call from Defendant from telephone number: 866-515-3445.

13. Defendant places calls to Plaintiff at 330-297-5964.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

14. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.
- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

WHEREFORE, Plaintiff, SUSAN PHILLIANS, respectfully requests judgment be entered against Defendant, BAY AREA CREDIT SERVICE for the following:

15. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
16. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
17. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, SUSAN PHILLIANS, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville

J. DANIEL SCHARVILLE (0071132)
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Attorney for the Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF OHIO

Plaintiff, SUSAN PHILLIANS, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, SUSAN PHILLIANS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

September 29, 2011
Date

Susan Phillips
SUSAN PHILLIANS